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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,252	01/26/2001	Brian L. Arend	1800/USW0595PUS	8122
22193	7590	11/12/2004	EXAMINER	
QWEST COMMUNICATIONS INTERNATIONAL INC LAW DEPT INTELLECTUAL PROPERTY GROUP 1801 CALIFORNIA STREET, SUITE 3800 DENVER, CO 80202			EL HADY, NABIL M	
		ART UNIT	PAPER NUMBER	2154

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/771,252	ARENDE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nabil M El-Hady	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/26/2001</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

1. Claims 1-30 are pending in this application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4,7-9, 11-19, 22-24, and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Pepe et al. (US 5,742,905), hereafter "Pepe".
4. As per claim 1, Pepe discloses the invention as claimed including a system for delivering information to at least one subscriber comprising: a subscriber data storage element (e.g. Figure 3, item 44); a wireless receiver in communication with the data storage element (e.g. Figure 3, items 30 and 34); a wireless distribution system in wireless communication with each receiver/transceiver (e.g. Figure 3, item 29); a data delivery server in communication with the wireless distribution system, the data delivery server containing information to be delivered to at least one wireless receiver (e.g. Figure 3, item 48); and an internetworking function element in communication with the wireless distribution system (PCI 40, Fig. 1), the internetworking function element operative to receive the information to be delivered and to deliver the information (col. 5, lines 56-59) based on a determined delivery event to reduce the impact of information delivery on the wireless distribution system ( subscriber's message receipt and delivery options, col. 3, lines 51-54; and selected options and parameters, col. 23, lines 56-62).
5. As per claim 18, the claim is rejected for similar reasons as claim 1 above. In addition, Pepe discloses a method for delivering information to a wireless receiver/transceiver comprising: receiving information for delivery (20, 22, 24, 26, to 29, Fig. 1); determining a time

to deliver the information (subscriber's message receipt and delivery options, col. 3, lines 51-54), the time based on reducing the impact of information delivery on a wireless system in communication with the wireless receiver/transceiver (subscriber's message receipt and delivery options, col. 3, lines 51-54; and selected options and parameters, col. 23, lines 56-62) ; delivering the information to the wireless distribution system (40 to 39, Fig. 1); and wirelessly transmitting the information to the receiver/transceiver (39 to 30, 32, 34, Fig. 1).

6. As per claims 2 and 19, Pepe discloses a plurality of radio access points operative to communicate with a wireless receiver (e.g. col. 7, lines 39-48); a wire line communication network (e.g. col. 7, lines 39-48); and at least one distribution element operative to route information between access points and between an access point and the wire line communication system (e.g. Figure 3, item 42).

7. As per claim 3, Pepe discloses the data delivery server is connected to the wire line communication system (e.g. Figure 3, item 48).

8. As per claim 4, Pepe discloses internetworking function element connected to the wire line communication system and the at least one distribution element (e.g. Figure 3, items 48, 39 and 42).

9. As per claims 7 and 22, Pepe discloses the data storage element is a component in a computer system (e.g. Figure 6).

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10. As per claims 8 and 23, Pepe discloses the data storage comprises removable memory (e.g. col. 8, lines 54-59).

11. As per claims 9 and 24, Pepe discloses the delivery event is based on a time of day (col. 23, lines 56-57).

12. As per claims 11 and 26, Pepe discloses the data delivery server is further operative to receive instructions about a priority of information for delivery and to deliver the information based on the priority (e.g. col. 28, lines 41-46).

13. As per claims 12 and 27, Pepe discloses the wireless distribution system is operative to distribute information simultaneously to a plurality of subscriber wireless receiver (e.g. Figure 3).

14. As per claim 13, Pepe discloses the wireless receiver is part of a wireless transceiver (e.g. Figure 3, items 30 and 22).

15. As per claims 14 and 28, Pepe discloses the wireless transceiver is operative to transmit information through the wireless distribution system based on a determined delivery event to reduce the impact of information delivery on the wireless distribution system (e.g. col. 23, lines 39-63).

16. As per claim 15, Pepe discloses the wireless receiver receives notification once information delivery is complete (e.g. col. 4, lines 57-61).

17. As per claims 16 and 30, Pepe discloses at least one protected computer system sourcing information to be delivered to the wireless receiver (e.g. Figure 21).

18. As per claims 17, and 29, Pepe discloses the internetworking function element queries the wireless receiver prior to delivering information (e.g. col. 15, lines 15-31).

19. Claims 5, 6, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepe in view of Tett (US 5,604,788).

20. As per claims 5 and 20, Pepe does not specifically disclose the data storage element and the wireless receiver are a single unit. Tett teaches a system for delivering information wherein the data storage element and the wireless receiver are a single unit (e.g. Figure 1, item 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Pepe and Tett. The motivation would have been to store messages through a wireless storage device.

21. As per claims 6 and 21, Pepe does not specifically disclose the data storage element is disposed within a cradle for supplying power to the wireless receiver. Tett shows a system for delivering information wherein the data storage element is disposed within a cradle for supplying power to the wireless receiver (e.g. col. 2, lines 17-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Pepe and Tett. The motivation would have been to have a single unit instead of a distributed system.

22. Claims 10 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pepe in view of Johnson et al. (US 6,556,826), hereinafter "Johnson".

23. As per claims 10 and 25, Pepe does not specifically disclose the delivery event is based on measured parameters in the wireless distribution system. Johnson, on the other hand, discloses the delivery event is based on measured parameters in the wireless distribution system (abstract, lines 8-9; and col. 2, lines 30-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Pepe and Johnson because the dynamic nature of information delivery disclosed by Johnson, as it is based on measured parameters, would enhance the performance of Pepe's system.

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carter et al. (US 6,659,947); Campana et al. (US 6,567,397); Miller et al. (US 5,920,701); and Holtzman et al. (US 2002/0089947).

25. Applicant's arguments filed 6/25/2004 have been fully considered but they are not persuasive. Therefore the rejection of claims 1-30 is maintained.

26. In the remarks, applicants argued in substance that (1), Pepe does not teach or suggest the internetworking function element which received information from a data delivery server and deliver information based on a determined delivery event, (2) Pepe neither teaches nor fairly suggests determining when to deliver information so as to reduce the impact of information delivery on the wireless network. Examiner respectfully traverses applicants' remarks.

27. As to point (1), Pepe discloses the internetworking function element which received information from a data delivery server and deliver information based on a determined delivery event (PCI 40, Fig. 1).

28. As to point (2), Pepe discloses determining when to deliver information (subscriber's message receipt and delivery options, col. 3, lines 51-54; and selected options and parameters, col. 23, lines 56-62), so as to reduce the impact of information delivery on the wireless network (options and parameters to deliver information to subscribers may be based on a time of day; col. 23, lines 56-57).

29. Also, it is noted that Johnson, discloses the delivery event is based on measured parameters in the wireless distribution system (abstract, lines 8-9; and col. 2, lines 30-35) in order to reduce the impact of information delivery on the wireless network. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Pepe and Johnson because the dynamic nature of information delivery disclosed by Johnson, as it is based on measured parameters, would enhance the performance of Pepe's system.

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (571) 272-3963. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



November 8, 2004

Nabil El-Hady, Ph.D, M.B.A.  
Primary Patent Examiner  
Art Unit 2154